

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

ROBERT ALLEN DUTTON,)
Petitioner,) Civil Action No. 7:20cv00347
)
v.) MEMORANDUM OPINION
)
COMMONWEALTH OF VIRGINIA,) By: Michael F. Urbanski
Respondent.) Chief United States District Judge

By order entered July 27, 2020, the court construed and conditionally filed Dutton's letter as a petition for writ of habeas corpus filed pursuant to 28 U.S.C. § 2254. In the conditional filing order, the court ordered Dutton to complete a habeas petition form, submit information concerning the timeliness of his petition, and either pay the filing fee, execute and return a consent to withholding of fees form, or apply to proceed in forma pauperis. The court advised Dutton that failure to comply with the court's order within ten days would result in the dismissal of his petition. Dutton did not respond to the court's order.

Inasmuch as the time to respond has passed and Dutton has failed to comply with the court's order, the court will dismiss this action without prejudice. Further, based upon the finding that Dutton has not made the requisite substantial showing of a denial of a constitutional right as required by 28 U.S.C. § 2253(c) and Slack v. McDaniel, 529 U.S. 473, 484 (2000), the court will deny a certificate of appealability. Dutton may re-file his claims in a separate action, subject to the applicable statute of limitations.

ENTER: This 11th day of August, 2020.



Michael F. Urbanski
Chief U.S. District Judge
2020.08.11 18:16:36
-04'00'

Michael F. Urbanski
Chief United States District Judge